

**REMARKS:**

In the outstanding Office Action, the Examiner rejected claims 1-9. Claims 2-7 are amended herein and claims 1, 8 and 9 are cancelled without prejudice. Claims 10 and 11 are added. No new matter is presented. Proper support for the amendments can be found at least at paragraphs 55, 59, 60 and Fig.6.

Thus, claims 2-7, 10 and 11 are pending and under consideration. The rejections are traversed below.

**REJECTION UNDER 35 U.S.C. § 112:**

Claims 1 and 9 were rejected under 35 U.S.C. § 112 as being indefinite. As mentioned above, claims 1 and 9 are cancelled herein.

Therefore, withdrawal of the rejection is respectfully requested.

**REJECTION UNDER 35 U.S.C. § 103(a):**

Claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of the following: U.S. Publication No. 2003/0177030 (Turner), U.S. Patent No. 6,302,844 (Walker), U.S. Pub. No. 2002/0083192 (Alisuag), U.S. Patent No. 6,539,101 (Black) and U.S. Pub. No. 2002/0029157 (Marchosky).

Turner is directed to a system that determines whether access to a patient's information should be granted by a specific security level of the predetermined plural security levels. In Turner, security clearance levels are directed to clearance through security levels utilizing passwords assigned to a patient at admission or the initiation of employment in case of a caregiver or staff member of treatment center (see, paragraph 25) that may determine who will be given the passwords for accessing the patient's information (see, paragraph 26). For example, members of the first security level (50) are given ability to leave questions for the patient and members of the second security level (60) are given ability to access background information and medical records (see, paragraphs 26-29). That is, the Turner authentication method is limited to only using a password and employing different passwords for different security levels.

The Examiner relies on Walker as teaching defined information for each specific individual. Walker discusses a patient preference ranking where the patient identifies certain preferences regarding physicians (see, Fig. 5B) and medical records of the patient maintained at a medical records clearinghouse (180) are simply delivered to a physician accepting to provide

services to the patient (see, col. 7, lines 6-12 and col. 11, lines 11-24). That is, Walker is limited to sending the patient's medical records using the same access path or hyperlink to medical records clearinghouse to the physicians meeting the patient's preference ranking.

The record administration system of Alisuag discusses use of a fingerprint of a patient if the patient is unconscious or otherwise unable to provide the pass code. However, Alisuag is directed to use of the same passcode for accessing all of the patient's records from the server (see, Fig. 2 including corresponding text and paragraph 12).

On the other hand, Black simply discusses biometric technology based identity verification offered based on location (see, col. 4, lines 50-58 and col. 8, lines 31-40).

The Examiner further asserts that Marchosky discloses what the Examiner indicates as the well-known concept of the items being assigned in accordance with a selection of an individual and an information disclosure procedure defined by each individual. The Applicants respectfully traverse the Examiner's statement and request that the Examiner to produce authority for the statement. The Applicants specifically point out the following errors in the Examiner's action.

First, the Examiner uses common knowledge ("well-known") evidence for the rejection. As explained in the M.P.E.P.,

any facts so noticed should... server only to "fill in the gaps" in an insubstantial manner which might exist in the evidentiary showing made by the Examiner to support a particular ground for rejection. It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection is based.

**M.P.E.P. § 2144.03**

Second, the noticed fact is not considered to be common knowledge or well-known in the art. In this case, the limitation is not of notorious character or capable of instant and unquestionable demonstration as being well-known. Instead, this limitation is unique to the present invention (see, M.P.E.P. § 2144.03(A) (the notice of facts beyond the record which may be taken by the Examiner must be "capable of such instant and unquestionable demonstration as to defy dispute").

Third, there is no evidence supporting the Examiner's assertion (see, M.P.E.P. § 2144.03(B) ("there must be some form of evidence in the record to support an assertion of common knowledge").

Fourth, the Examiner appears to be basing the rejections, at least in part, on personal knowledge. The Examiner is required under 37 C.F.R. § 1.104(d)(2) to support such assertion with an affidavit when called for by the Applicant. The Examiner is called upon to support such assertion.

Further, even if the Examiner's assertion and rejection based on common knowledge is valid, Marchosky discusses access authorization of individual patients with respect to their medical records where all selected medical professionals use the security program (114) to access the particular patient's medical and biographical record (see, paragraphs 22 and 36).

According to the disclosed system and method, disclosure items are classified into plural levels and assigned by an individual, for example, a patient. That is, the specific individual or patient determines which authentication method should be assigned to which disclosure level.

For example, if user 1 requests access to the disclosure item 1 of a patient's information and user 2 requests access to the disclosure item 2 of the same patient's information, disclosure items 1 and 2 may be classified into different levels by the patient and authentication method of the user 1 may be different from that of the user 2. As such, disclosure items requested and different situations (i.e., normal, emergency, etc.) of a patient may lead to different authentication methods for different users.

Independent claim 2 recites, "a disclosure procedure storing section in which an information disclosure procedure assigned to each individual by each individual is registered, the information disclosure procedure including a plurality of disclosure levels into which the individual information is classified, each disclosure level including disclosure items assigned by the individual and being attached with an authentication method assigned by the individual." Claim 2 further recites, "a disclosure procedure executing section receives a request for disclosing a piece of individual information of a specific individual, executes an information disclosure procedure of the specific individual stored in the disclosure procedure storing section, and transmits the piece of individual information of the specific individual... when the assigned information disclosure procedure is satisfied."

The claimed device of claim 2 includes “a plurality of ranked pieces of information for each individual based on an arrangement that each individual assigns a rank to each of the plurality of ranked pieces of information that constitute the individual information from among a plurality of ranks” and the disclosure procedure executing section executes “an information disclosure procedure stored in the disclosure procedure storing section matching an information disclosure procedure corresponding to a rank assigned to the individual information of the specific individual.”

Similarly, claim 10 recites, “storing information of the users in association with information disclosure items correspondingly assigned in accordance with a selection by the users” and “allowing each of the users to define an information disclosure procedure necessary to access respective information of each of the users.” Claim 10 further recites that the information of the users includes “a plurality of ranked pieces of information for each user based on an arrangement that each user assigns a rank to each of the plurality of ranked pieces of information that constitute information of each user from among a plurality of ranks” and “an information disclosure procedure according to each rank assigned by each user is registered.”

Claim 11 also recites, “allowing the first user to define a corresponding disclosure procedure, the corresponding disclosure procedure being used for accessing each item of the information and including a plurality of disclosure levels into which information of the first user is classified.” Claim 11 further recites, “the information of the first user includes a plurality of ranked pieces of information each ranked based on a rank assigned by said first user” and when a request from “a second user” for disclosing the information of the first user is received, “an information disclosure procedure matching an information disclosure procedure corresponding to a rank assigned to the information of the first user is executed.”

The cited references, do not teach or suggest the above-discussed features of the independent claims including “information disclosure procedure including a plurality of disclosure levels”, “plurality of ranked pieces of information based on arrangement by each individual” and executing the disclosure procedure according, as recited in claims 2, 10 and 11.

It is submitted that the independent claims are patentable over the cited references.

For at least the above-mentioned reasons, claims depending from the independent claims are patentably distinguishable over the cited references. The dependent claims are also independently patentable. For example, claim 6 recites, the claimed invention includes “an authentication procedure assigned by each individual for authenticating each individual, as a

part of an information disclosure procedure for each individual” and authenticates the specific individual “after the disclosure procedure executing section has received an approval for the corresponding individual information disclosure.” The cited references, alone or in combination, do not teach or suggest these features of claim 6.

Therefore, withdrawal of the rejection is respectfully requested.

**CONCLUSION:**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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